

Nye County Sheriff's Office		Policy & Procedures Manual
Policy 1025 Nye County Sheriff's Office Records, & Dissemination of Records		Approved 01/16/2017 SAW  Effective 01/16/2017 Published: 1/16/2017
Prepared by: Sgt. Boruchowitz, Reviewed by: Undersheriff Moody, Collaborated with: NCLEA, NCEA. Approved by: Sheriff Wehrly		

PURPOSE

This policy establishes Nye County Sheriff's Office (NCSO) procedures for responding to public records requests. The NCSO recognizes that Nevada Records Law (NRS 239.010-Public 239.055) gives members of the public and media the right to inspect and copy certain public records in the legal custody or control of the Sheriff's Office.

The Sheriff's Office also recognizes that certain records in the legal custody or control of the Sheriff's Office are exempt from public disclosure, or that disclosure may require balancing the right of the public to access the records against individual privacy rights, governmental interests, confidentiality issues and attorney/client privilege. Additionally, when the NCSO receives a request to inspect or copy public records, costs may be incurred by the NCSO in responding to the request.

The purpose of this Public Records Policy is to:

- Establish an orderly and consistent procedure for receiving and responding to public records requests from the public and media;
- Establish the basis for a fee schedule designed to reimburse the NCSO for the actual costs incurred in responding to public records requests; and
- Inform citizens and members of the media of the procedures and guidelines that apply to public records requests.

The NCSO is required to respond to public requests pursuant to the Nevada Public Records Law. The Federal "Freedom of Information Act" (FOIA) does not apply to requests for the NCSO's public records. FOIA only applies to requests for public records maintained by the federal government.

DEFINITIONS

Records Official Coordinator (ROC): Employee assigned by the Sheriff to be the central record keeper of all public records requests.

Extraordinary requests: If a request for a copy of a public record that would require the NCSO to make extraordinary use of its personnel or technological resources there will be a fee charged in accordance with this policy. Technological resources means any information, information system or information service acquired, developed, operated, maintained or otherwise used by the NCSO.

Examples of extraordinary requests:

- The request is for a voluminous quantity of records containing a substantial number of records;

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- The request requires the NCSO to review a large number of records to locate the records requested;
- Redacting confidential information that the requester is not entitled to inspect from information that the requester is entitled to inspect requires extensive editing;
- Extracting information that the requester is entitled to inspect requires computer programming

POLICY [CALEA 82.1.1 A, C; 82.1.7]

It is the policy of the NCSO to respond in an orderly, consistent and reasonable manner in accordance with the Nevada Public Records Law to requests to inspect or receive copies of public records maintained by the Sheriff's Office.

Factors that may delay production of records include: the size and complexity of the request, available staff time and resources, and whether legal counsel needs to be consulted prior to disclosing the requested records.

Some public records requests are for information that would actually require the creation of a new public record. Governmental entities are not obligated under Nevada's Public Records Law to create new public records where none exists in order to respond to requests for information. Although a public body may, if it chooses, create a new record to provide information, the public body does not have to create a new record and only has a duty to allow the inspection and copying of an existing public record.

A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of the Sheriff's Office who has legal custody or control of a public record shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

RECORDS OFFICIAL COORDINATOR

The NCSO is required to have a Records Official, pursuant to NRS 239.008. NCSO designates the Records Official Coordinator (ROC) as the custodian of records. In the event the custodian of records is unavailable, the Supervising Sheriff's Administrator shall be designated as the Records Official Coordinator (ROC) in the absence of the custodian of records and the Operations Sergeant shall assume that role in the absence of both. .

All requests for public records must be documented, for internal purposes, by one of the following methods:

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- A Public Records Request Form completed by either the requester or the individual taking a verbal request. This should include those requests for review access only; or
- A written request, which may also include e-mail and facsimile, containing the date of the request; name of the individual making the request; the specific information being requested; the type of media (paper, e-mail, CD, etc.) the requester wishes the information in; and the contact information where the request is to be returned (phone number, FAX number, address, or e-mail if different from the sending address).

The ROC will ensure that all requests are entered into the NCSO records management system in the civil process table in Spillman. In addition to including the information in the civil process table, dissemination needs to be started in Spillman and updated with information on all disseminations.

The day the ROC receives a request for records under this policy, the ROC shall enter the request into the civil process screen. The ROC shall also create a new dissemination in Spillman and attach the request to the files under that section. The ROC shall link those two records together. The information contained in the log shall include, but not be limited to the following:

- Date of the request;
- Name of the employee from which the request originated or was referred to for completion;
- Date request fulfilled and/or denied, in whole or in part;
- Name of the individual making the request;
- Summary of information requested;
- Number of pages;
- Items/pages withheld and reason; and
- Any monies collected.

The ROC will acknowledge the receipt of all requests in writing (e-mail is acceptable). The ROC will ensure that, within five (5) business days from the receipt of the request:

- Preferably the requester inspects the record or receives copies of the record, as requested; or
- If the NCSO does not have legal custody of the record, the requester is provided written notice of that fact along with the name and address of the governmental entity that has legal custody of the record (if known); or
- If the record has been destroyed pursuant to the NCSO records retention schedule, the requester is provided written notice of that fact; or
- If the NCSO is unable to provide the record by the end of the fifth business day after the request is received, the requester is provided written notice of that fact with a date and time after which the record will be available for inspection (or copy); or

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- If the request is denied because the record is confidential, the requester is provided written notice of that fact with a citation to the specific statute or other legal authority that makes the record confidential.

The requester must be advised, in advance, of the volume or list of records encompassing the request and the estimated potential fee to provide the records if applicable. Copies of records shall be furnished upon payment of the applicable fee(s).

- The requester shall be advised that copies of requested public records will be held for thirty (30) days and subsequently destroyed if not claimed.
- If the fee for providing copies exceeds \$25, the requester is to be advised that advance payment in full is required to process the request.

If the ROC determines that a public records request will require extraordinary use of its personnel or technological resources to fulfill, the ROC may designate the request as an Extraordinary Public Record Request.

For all extraordinary requests, the requester shall be advised in writing of the fee and that payment in full is required in advance.

RECORDS THAT THE NYE COUNTY SHERIFF'S OFFICE IS NOT CUSTODIAN OF

The NCSO often relies on information from the criminal justice process that they are not the custodian over (ex. NCIC, DMV, Court records etc.). In the event a request is received for records that the NCSO is not the custodian over, the requester shall be notified of such, and if known the information about who is the custodian shall be provided to the requester.

RECORDS THAT THE ROC DOES NOT HAVE IMMEDIATE CONTROL OVER

There may be occasions where the ROC receives a request for records the ROC does not have immediate control over. The three most common examples of this are records pertaining to evidence, dispatch and detention. In the event the ROC does not have immediate control over these records, ROC shall request from the supervisor of those divisions access to those records. The supervisor will provide those records in a timely manner to the ROC to be released pursuant to the request.

CONFIDENTIAL RECORDS (INCLUDING REDACTION) [CALEA 82.1.2 c]

Pursuant to NRS 239.010 certain public records are deemed confidential. This policy covers some routinely encountered statutes; however, the ROC should become familiar with all the exceptions pursuant NRS 239.010 so as to be able to appropriately respond.

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If a record contains information deemed confidential, the record may not be made available for inspection until it has been properly redacted. If the entire record is confidential by law, it must not be made available for inspection by the public. Questions about confidentiality of entire records should be referred to the ROC and/or his/her designee.

A request to inspect or copy the record being reviewed cannot be denied if the confidential information can be redacted, deleted, concealed, or separated from the record, so the remainder of the record can be inspected or copied.

When a record contains confidential information, it does not mean that the record "in whole" may be denied. Rather, the rule is that the NCSO can "redact, delete conceal or separate" confidential information, but the remainder of the record must be released.

Every redaction shall be considered to be an "in part" denial of the request. Because it is time consuming to redact confidential information does not override the requirement to do it.

If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and confidential information, the ROC shall redact the confidential information. There will be no charge to the requester for the redaction; however, there will be a charge for the copies that must be made of the redacted material in order for the requester to view the public record.

The following are records which are confidential and that are encountered frequently and as such we have provided information regarding these types of records:

- **Personal Identifying Information** – NRS 239B.030(5a). Each governmental agency shall ensure that any personal information contained in a document that has been recorded, filed or otherwise submitted to the governmental agency, which the governmental agency continues to hold, is maintained in a confidential manner if the personal information is required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.

Pursuant to NRS 603A.040 Personal Information is defined as:

1. "Personal information" means a natural person's first name or first initial and last name in combination with any one or more of the following data elements, when the name and data elements are not encrypted:
 - (a) Social security number.
 - (b) Driver's license number, driver authorization card number or identification card number.

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(c) Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.

(d) A medical identification number or a health insurance identification number.

(e) A user name, unique identifier or electronic mail address in combination with a password, access code or security question and answer that would permit access to an online account.

2. The term does not include the last four digits of a social security number, the last four digits of a driver's license number, the last four digits of a driver authorization card number or the last four digits of an identification card number or publicly available information that is lawfully made available to the general public from federal, state or local governmental records.

The loss of Personal Identifying Information can result in substantial harm to individuals, including identity theft or other fraudulent use of the information. Many agencies manage personal identifiable information and other sensitive data concerning citizens, and as such, have a special responsibility to protect that information from loss and misuse.

- **Bids and Proposals under Negotiation or Evaluation** – NRS 332.061(2). Bids which contain a provision that requires negotiation or evaluation may not be disclosed until the bid is recommended for award of a contract. Upon award of the contract, all of the bids, successful or not, with the exception of proprietary/confidential information, are public record and copies shall be made available upon request.
- **Bids and Proposals Containing Proprietary Information** – NRS 332.061(1). Proprietary information does not constitute public information and is confidential.
- **Emergency Action Plans and Infrastructure Records** – NRS 239C.210(2). Records detailing the Sheriff's Office Emergency Response Plans and critical infrastructure are confidential.
- **Employee Personnel and Medical Records** – HIPAA 45 CFR Part 160 and Part 164. All employee personnel and medical records are confidential.
- **Databases Containing Electronic Mail Addresses or Telephone Numbers** – NRS 239B.040. Electronic mail addresses and/or telephone numbers collected for the purpose of or in the course of communicating with the County may be maintained in a database. This database is confidential in its entirety, is not public record, and it must not be disclosed in its entirety as a single unit; however, the individual electronic mail address or telephone number of a person is not confidential and may be disclosed individually.
- **Medical Records** – Health Insurance Portability and Accountability Act (HIPAA 45 CFR Part 160 and Part 164). Medical records collected during medical transports may only be disclosed to the patient or as authorized by the patient.
- **Attorney/Client Privileged Records** – Records containing information relating to representation of a client between a client and an attorney.

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- **Acts of terrorism restricted documents** – NRS 239C.210. Blueprints or plans of schools, places of worship, airports other than an international airport, gaming establishments, governmental buildings or any other building or facility which is likely to be targeted for a terrorist attack are considered “Restricted Documents.” The Sheriff’s Office also classifies Civil Improvement Plans as restricted documents. These plans can only be inspected after supplying: (a) name; (b) a copy of a driver’s license or other photographic identification that is issued by a governmental entity; (c) the name of employer, if any; (d) citizenship; and (e) a statement of the purpose for the inspection.
 - Individuals must meet one of the following criteria to receive a copy of a restricted document:
 - upon the lawful order of a court of competent jurisdiction;
 - as is reasonably necessary in the case of an act of terrorism or other related emergency;
 - to protect the rights and obligations of a governmental entity or the public;
 - upon the request of a reporter or editorial employee who is employed by or affiliated with a newspaper, press association or commercially operated and federally licensed radio or television station and who uses the restricted document in the course of such employment or affiliation;
 - or upon the request of a registered architect, licensed contractor or a designated employee of any such architect or contractor who uses the restricted document in his or her professional capacity.
- **Records Relating to Litigation or Potential Litigation** – Donrey v. Bradshaw. Records involving criminal investigations, litigation or potential litigation are considered confidential.
- **Local Ethics Committee Opinions** – NRS 281A.350. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless: a. The public officer or employee acts in contravention of the opinion; or b. The requester discloses the content of the opinion.
- **Concealed weapon application.** Pursuant to NRS 202.3662, an application for a permit, and all information contained within that application; all information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant or permittee; the identity of the permittee; and any records regarding the suspension, restoration or revocation of a permit are confidential.
 - **Law enforcement agency.** Any records regarding an application or permittee may be released to a law enforcement agency for the purposes of conducting an investigation or prosecution.
 - **Statistical abstracts of data.** Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued may be released to any person.
- **Juvenile Justice Information.** Pursuant to NRS 62H.025, juvenile justice information is confidential and can only be released pursuant to the exceptions in that NRS.
- **Sex Offender Registration.** Pursuant to NRS 179D.160, unless authorization is provided by statute to release sex offender registrations are confidential and not subject to inspection by the general public.

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- **Victims of Sexual Offenses.** Pursuant to NRS 200.3771, any records that reveal the identity of a victim of a sexual offense, an offense involving a pupil or sex trafficking is confidential, including but not limited to the victim's photograph, likeness, name, address or telephone number.
- **Names of a Victim of Sexual Offenses.** Pursuant to NRS 200.3773, no employee who has access to agency records that reveal the identity of a victim of sexual offense, an offense involving a pupil or sex trafficking may disclose the identifying information to any person unless as authorized by statute.
- **Reports of Abuse, Neglect, Exploitation, Isolation or Abandonment of Vulnerable Person.** Pursuant to NRS 200.5095, any report relating to the abuse, neglect, exploitation, isolation or abandonment of a vulnerable person is confidential and not to be released unless as authorized by statute. If the report is made available under one of the exceptions in the NRS, the name and any other identifying information of the person who made the report shall be redacted before the data or information is made available.
- **Peace Officer Information.** Pursuant to NRS 289.025, The home address and photograph of any peace officer in the possession of a law enforcement agency are not public information and are confidential except as authorized by statute.
- **Reports of Abuse or Neglect of a child.** Pursuant to NRS 432B.280, any report relating to the abuse or neglect of a child is confidential and not to be released unless as authorized by statute. If the report is made available under one of the exceptions in the NRS, the name and any other identifying information of the person who made the report shall be redacted before the data or information is made available.
- **Records of Treatment Facility and Provider.** Pursuant to NRS 458.280, the registration and other records of a treatment facility and treatment provider are confidential and must be disclosed to any person not connected to the facility.
- **Clinical records.** Pursuant to NRS 433A.360, clinical records of a patient are not a public record and no part of it may be released except as provided by statute.
- **Agencies of criminal justice** in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of NRS 179A.
- **Criminal reports, and dispatch records and recordings.** Reports, dispatch records and recordings may be confidential depending on their content and must be reviewed pursuant to the standards in this policy. If denied, the denial shall cite *Donrey of Nevada, Inc., vs. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990) and *DR Partners v. Board of County Commissioners*, 116 Nev. 616, 6p.3d 465 (2000) and 83 Op. Att'y Gen. No. 3.
- **NCIC/DMV records.** NCIC and DMV records are examples of records not maintained by the NCSO; thus, we do not have authorization to release their records.
- **SEALED AND EXPUNGED RECORDS.** All records that have been sealed or expunged pursuant to a court order are to be non-existent unless by court order and thus their existence is confidential.

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EVIDENCE

Items that are seized as evidence such as documents, recordings, photographs that are taken and booked into evidence that are to be used for purposes of proving a crime are not public records and instead are governed by NRS pertaining to evidence and the release of such.

MOTOR VEHICLE ACCIDENT REPORTS

Pursuant to NRS 484E.110, every report relating to a vehicle crash which is to be reported to the State Department of Public Safety, and the information contained therein, is not privileged or confidential.

Pursuant to NRS 248.242, within 7 days after receipt of a written request of a person who claims to have sustained damages as a result of a crash, or his or her legal representative or insurer, and upon receipt of a reasonable fee pursuant to this policy to cover the cost of reproduction, the ROC shall provide the person, his or her legal representative or insurer, as applicable, with a copy of the crash report and all statements by witnesses and photographs in the possession or under the control of the Sheriff's Office that concern the crash.

The only exceptions to this are if the materials are privileged or confidential pursuant to a specific statute; or the crash involved the death or substantial bodily harm of a person; failure to stop at the scene of a crash; or the commission of a felony.

VICTIMS OF CRIME

Pursuant to NRS 179A.120, NCSO employees may disclose to victims of a crime, members of their families or their guardians, the identity of persons suspected of being responsible for the crime, including juveniles **who have** been certified to stand trial as adults, together with information, including dispositions, which may be of assistance to the victim in obtaining redress for an injury or loss in a civil action.

This disclosure may be made regardless of whether charges have been filed, and even if a prosecuting attorney has declined to file charges or the charge has been dismissed.

This provision does not entitle the victim of a crime to any additional information other than as listed above unless they were entitled to receive the information under a different provision of this policy.

ARREST REPORT/MUG SHOTS

Pursuant to NRS 179A.100, the NCSO considers the arrest report, booking information, declaration of arrest and mug shots to be public record that can be released without restriction.

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Requests for these types of records should be submitted to the Operations Sergeant and not through the ROC.

If an employee makes an arrest and is required to establish probable cause to put information within such records that contains information deemed confidential by NRS and this policy, the deputy will not scan the declaration of arrest to the "DEC" folder as is customary and will simply provide it to NCSO Detention Deputies for the criminal justice process. This declaration of arrest shall have the word CONFIDENTIAL written on the top.

CRIMINAL REPORTS, DISPATCH RECORDS, RECORDINGS

Reports, dispatch records, and dispatch recordings are frequently key elements in the NCSO's discharge of its duty to enforce the criminal law as well as necessary to provide fire, medical and other assistance to the public. Such duties clearly necessitate the keeping of a record of such things, and the Courts have repeatedly found the records to be public records; however, they are subject to exceptions to the public records law (see below).

The general rule of disclosure is not absolute, and certain exceptions apply. If an emergency call, dispatch log, or report relates to criminal activity and there is a pending criminal investigation or prosecution, it is subject to the criminal investigation exception and disclosure of the record becomes subject to the balancing test set forth in *Donrey of Nevada, Inc., vs. Bradshaw*, 106 Nev. 630, 798 P.23d 144 (1990) and *DR Partners v. Board of County Commissioners*, 116 Nev. 616, 6p.3d 465 (2000) and 83 Op. Att'y Gen. No. 3. The balancing test weighs the public interest for disclosure against the governmental interest in preventing disclosure.

If a criminal investigation or prosecution is pending, there is a very strong governmental interest in preventing disclosure which outweighs the public's interest in releasing the records. The weightier governmental interest creates an exception to the general rule requiring disclosure, and such records must not be released. Additional exceptions concern records pertaining to juvenile activities, incidents involving sexual assault, suicides, and mentally ill patients. If there is a doubt that a public record clearly falls within these exceptions, a supervisor should be notified and they will seek the advice of the Nye County District Attorney's Office.

When receiving a request for criminal reports, dispatch records and/or recordings the ROC should consider the following:

- Is the report, record and or recording still pending?
 - If the answer is yes, the request is to traditionally be denied because there is a very strong governmental interest in preventing disclosure, which outweighs the public

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interest in releasing the records. This request should be denied citing Donrey of Nevada, Inc., vs. Bradshaw, 106 Nev. 630, 798 P.2d 144 (1990) and 83 Op. Att'y Gen. No. 3.

- In the event the request is for an incident that has a high level of public interest, the request is to be submitted to a supervisor for an opportunity for legal counsel to review the facts and circumstances.

In all other requests for these records, the following balancing test should be applied:

- Could the release of records be reasonably expected to interfere with enforcement proceedings?
- Would the release of records deprive a person of a right to a fair trial or an impartial adjudication?
- Could the release of the records reasonably be expected to constitute an unwarranted invasion of personal privacy?
- Could the release of the records reasonably be expected to disclose the identity of a confidential source?
- Would releasing the records disclose techniques and procedures for law enforcement investigation or prosecutions, or disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law?
- Could release of the records reasonably be expected to endanger the life or physical safety of any individual?

If the answer is yes to any of these questions, the level of public interest then needs to be compared to the risks associated with any of these questions. If the ROC is unsure, a supervisor should be contacted and legal counsel will provide assistance in making a determination.

RECORD OF CRIMINAL HISTORY

Records of criminal history shall be distributed pursuant to NRS Chapter 179A. This policy will cover the highlights of these releases, however all employees handling these requests shall study and be aware of the specifics of the NRS governing their release.

Pursuant to NRS 179A.070

1. "Record of criminal history" means information contained in records collected and maintained by agencies of criminal justice, the subject of which is a natural person, consisting of descriptions which identify the subject and notations of summons in a criminal action, warrants, arrests, citations for misdemeanors issued pursuant to [NRS 171.1773](#), citations issued for violations of [NRS 484C.110](#), [484C.120](#), [484C.130](#) and [484C.430](#), detentions, decisions of a district attorney or the Attorney General not to prosecute the subject, indictments, informations or other formal criminal charges and dispositions of charges, including, without limitation, dismissals, acquittals, convictions, sentences, information set forth in [NRS 209.353](#) concerning an offender in prison, any postconviction relief,

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correctional supervision occurring in Nevada, information concerning the status of an offender on parole or probation, and information concerning a convicted person who has registered as such pursuant to [chapter 179C](#) of NRS. The term includes only information contained in a record, maintained in written or electronic form, of a formal transaction between a person and an agency of criminal justice in this State, including, without limitation, the fingerprints of a person who is arrested and taken into custody and of a person who is placed on parole or probation and supervised by the Division of Parole and Probation of the Department.

2. "Record of criminal history" **does not include:**

- (a) Investigative or intelligence information, reports of crime or other information concerning specific persons collected in the course of the enforcement of criminal laws;
- (b) Information concerning juveniles;
- (c) Posters, announcements or lists intended to identify fugitives or wanted persons and aid in their apprehension;
- (d) Original records of entry maintained by agencies of criminal justice if the records are chronological and not cross-indexed;
- (e) Records of application for and issuance, suspension, revocation or renewal of occupational licenses, including, without limitation, permits to work in the gaming industry;
- (f) Except as otherwise provided in subsection 1, court indexes and records of public judicial proceedings, court decisions and opinions, and information disclosed during public judicial proceedings;
- (g) Except as otherwise provided in subsection 1, records of traffic violations constituting misdemeanors;
- (h) Records of traffic offenses maintained by the Department to regulate the issuance, suspension, revocation or renewal of drivers' or other operators' licenses;
- (i) Announcements of actions by the State Board of Pardons Commissioners and the State Board of Parole Commissioners, except information concerning the status of an offender on parole or probation; or
- (j) Records which originated in an agency other than an agency of criminal justice in this State.

NRS 179A.100 Records that may be disseminated without restriction; records that must be disseminated upon request; information that must be disseminated regardless of written consent; information that must be disseminated only with written consent.

1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

- (a) Any which reflect records of conviction only; and
- (b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

- (a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

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(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which are the result of a name-based inquiry and which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive from a name-based inquiry, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense or the information described in subsection 7 of [NRS 179B.250](#). A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the information on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of [NRS 179A.190](#) concerning an employee, prospective employee, volunteer or prospective volunteer who gives written consent to the release of that information if the employer submits a request in the manner set forth in [NRS 179A.200](#) for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in [NRS 179A.210](#) for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of [NRS 179A.180](#) to [179A.240](#), inclusive, do not apply to an employer who requests information and to whom such information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of [NRS 179A.150](#).

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- (b) The person who is the subject of the record of criminal history when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.
- (c) The Nevada Gaming Control Board.
- (d) The State Board of Nursing.
- (e) The Private Investigator's Licensing Board to investigate an applicant for a license.
- (f) A public administrator to carry out the duties as prescribed in [chapter 253](#) of NRS.
- (g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.
- (h) Any agency of criminal justice of the United States or of another state or the District of Columbia.
- (i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee or to protect the public health, safety or welfare.
- (j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.
- (k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.
- (l) Any reporter for the electronic or printed media in a professional capacity for communication to the public.
- (m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.
- (n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.
- (o) An agency which provides child welfare services, as defined in [NRS 432B.030](#).
- (p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.
- (q) The Aging and Disability Services Division of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.
- (r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.
- (s) The State Disaster Identification Team of the Division of Emergency Management of the Department.
- (t) The Commissioner of Insurance.
- (u) The Board of Medical Examiners.
- (v) The State Board of Osteopathic Medicine.
- (w) The Board of Massage Therapists and its Executive Director.
- (x) The Board of Examiners for Social Workers.

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(y) A multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to [NRS 228.495](#).

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

COPYRIGHTED MATERIAL:

If the Sheriff's Office maintains public records containing copyrighted material, the Sheriff's Office will permit the person making the request to inspect the copyrighted material, and may allow limited copying of such material if allowed under Federal copyright law. The Sheriff's Office may require written consent from the copyright holder or an opinion from the County Attorney before allowing copying of such materials.

Copyrighted materials may be duplicated—without risk of infringement—when reproduction is for the specific purpose of: “criticism, comment, news reporting, teaching, scholarship, or research” (17 USC Sec. 107).

When the custodian is aware that some other use is intended, consultation with the District Attorney may be necessary to ensure there is no infringement by reproduction of copyrighted material.


FEES:

The NCSO will charge fees for public records in accordance with this policy and Nye County Resolution 2016-44 and as amended. A notice shall be posted at each NCSO substation stating the fee the NCSO charges to provide a copy of a public record.

No fee is imposed by the NCSO for the searching for or retrieving documents unless meeting the exceptions within this policy to be extraordinary use of its personnel or technological resources.

Public records are maintained electronically and will be produced via e-mail customarily and there will be no fee unless the request is extraordinary use of its personnel or technological resources. Should the requester ask for the records in some media other than e-mail, the fees will be in accordance with this policy and Nye County Resolution 2016-44. All payments must be made by check, money order, credit card or exact cash. (If a credit card is utilized, a merchant processing fee will be added to the fee above)

Pursuant to NRS 179A.140 the NCSO may charge a reasonable fee for the release of information relating to records of criminal history provided to any person or governmental entity. The NCSO has determined that the reasonable fee for production of records of criminal history pursuant to NRS 179A

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and this policy is \$15 for standard requests. If a request exceeds 10 pages, the reasonable fee for production of records of criminal history will increase to \$25.

If an outside vendor is required to copy any record, the requester shall pay the actual charges in connection with such copying services. The use of an outside vendor will be an anomaly and will only occur when approved by a supervisor.

Pursuant to 248.242, the NCSO will charge the following fees in conjunction with the release of crash reports:

- If records can be sent electronically, the Sheriff's Office charges \$5 per report for reports that have less than five photographs.
 - If over five photographs, the Sheriff's Office charges \$10 per report.
- If records cannot be sent electronically, the Sheriff's Office charges \$10 per report for reports that have less than five photographs.
 - If over five photographs, the Sheriff's Office charges \$15 per report.

All individuals and organizations will be charged fees in accordance with this policy and Nye County Resolution 2016-44 and as amended unless the requester is a government official acting in his/her official capacity, in which case all fees are waived.

PROTECTION OF ORIGINAL DOCUMENTS

At no time should any person inspecting public records be allowed to remove records from the premises or location stored. Members of the public shall not be allowed to have unsupervised possession of an original public record, regardless of the medium it appears in.

Pursuant to NRS 239.051 any records that have been placed on microfilm or have been saved in an electronic recordkeeping system shall be deemed to be the original record or writing, regardless of whether the original exists.

RECORDS REQUESTS [CALEA 55.1.3 b; 82.1.1 a, c; 82.1.2.c]

All public records, unless specifically defined by law to be confidential, must be open at all times during office hours to inspection by any person, and may be copied.

Minutes or audio recordings of public meetings are considered public records and must be made available for inspection by the public. Further, a copy of the minutes or audio recordings must be made available to the public upon request at no charge (NRS 241.035(2)).

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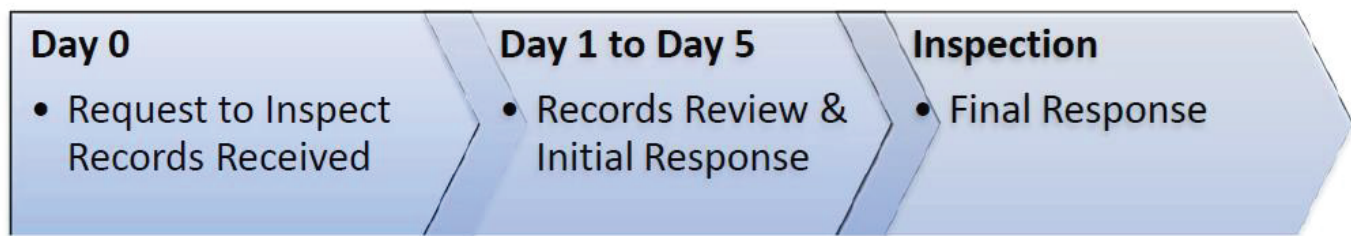
Public records requests must be responded to within the timeframes established in NRS 239.0107. The response may include an estimate of the time it will require to provide access or a copy.

An employee receiving the request should immediately notify the ROC. If the ROC and/or his/her designee have questions concerning inspection or reproduction of a requested document, he/she should consult the Sheriff through the chain of command.

RETENTION OF PUBLIC RECORDS REQUEST

Public records requests are to be maintained in accordance with this policy and such requests, correspondence and denials shall be considered public records and shall be made available upon request pursuant to this policy.

PROCEDURES FOR INSPECTION [CALEA 82.1.2 c]



Request to inspect records received – Day 0

The request shall be immediately forwarded to the records official of the NCSO. The request should be made on the NCSO standard records request form, however, if submitted in any form with required information the request shall be accepted. The request may be hand-delivered, mailed, emailed or sent via fax to the NCSO.

When an oral request is received, the receiving employee will complete an NCSO records request form with the required information obtained orally. If an oral request is received and there is any question as to the records being requested, the ROC will confirm the request in writing to eliminate any confusion regarding the request.

If the request is extraordinary, the ROC will require the request to be submitted in writing.

All public records requests must describe the public records sought with reasonable detail or identify the public record in sufficient detail to enable Sheriffs' Office employees to reasonably identify and locate the records.

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To the extent reasonable, the ROC should assist members of the public in making focused and effective requests. When an ROC is unclear as to the records that are being requested, the ROC must contact the requester in an effort to clarify and/or narrow the request. The ROC will not deny a request for access to public records because it is not specific enough or is too broad, and will simply respond to the request to the best of their abilities with the information provided.

A requester may request a copy of a public record in any medium in which the public record is readily available.

The NCSO may periodically put certain public records on the NCSO's website or another available website. If the requester is unwilling or unable to access the record online, the requester may submit a written request to the NCSO to have the record converted to another medium.

All public requests will be date stamped and logged into Spillman pursuant to this policy.

Records Review and Initial Response – Day 1 to Day 5

The ROC shall conduct a review to determine what public records, if any, exist which are responsive to the request and if any records are confidential and therefore exempt from disclosure.

Once it is determined whether any responsive public records exist, the ROC shall make an estimate of the expected costs, if any, in complying with the request.

The ROC will respond to all requests for public records on the NCSO Public Records Acknowledgement Form within five (5) business days after the receipt of the request. The clock starts the day after the request is received by the NCSO during regular business hours. For purposes of this policy, respond means either having fulfilled the request or, if not fulfilled, acknowledging the request in writing.

If the ROC cannot fulfill the request within the first five business days, the ROC shall notify the requester the earliest date and time the record will be available.

If the ROC cannot fulfill the request at all, they shall complete the Nye County Sheriff's Office Public Records Denial Form and send the form to the requester within five business days.

The ROC is to have open communication and negotiation to resolve disputes over large requests; ask if the requester can narrow the scope of the request or if the NCSO can offer the documents in batches, as they become available.

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Inspection

When the estimated fees have been paid, if applicable, the records official shall proceed to prepare the original public records for inspection, or have copies made of the records if copies were requested.

The ROC will then permit access to a government record in the medium requested if the NCSO maintains the record in that medium. If the Sheriff's Office does not maintain the record in the medium requested, the ROC shall either convert the record to the medium requested or provide a copy in some other mutually agreed upon medium.

Inspection shall occur at a time mutually agreed upon by the requester and the ROC. The ROC is obligated to offer inspection during normal business hours and to provide appropriate space for the inspection. The ROC shall have an employee observe the inspection or copying of records by the requester to the level necessary to make certain the records are not altered or destroyed.

IDENTIFYING IF A REQUEST IS A PUBLIC RECORD

A public record is defined by NRS 239.091 as "a record of a local governmental entity that is created, received or kept in the performance of a duty and paid for with public money. A record may be handwritten, typed, photocopied, printed, or microfilmed, and exist in an electronic form such as e-mail or a word processing document, or other types of electronic recordings.

Many factors contribute to the determination of public records. If the answer to any of the following questions is "yes", it is a public record:

- Did the NCSO require creation or submission and maintenance of the record?
- Was the record used to conduct or facilitate NCSO business?
- Was the record distributed to other offices or agencies for formal approval or reporting purposes?
- Does the record document official business action, such as: what happened, what was decided, what advice was given, who was involved, when it happened, and/or the order of events and decisions?

The following records are not official records:

- Routing slips or routing emails that contain no pertinent information or approvals
- Draft records of future records (sometimes)
 - Draft records may be treated as having administrative or reference value that ends and they may be destroyed when a new or final (official) version is created or when their reference value ends.

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- Public records requests for drafts should be referred to a supervisor immediately so the supervisor can consult with the Nye County District Attorney's Office prior to release.
- To avoid misunderstandings that can sometimes arise from drafts, consider labeling the drafts with "DISCUSSION DRAFT ONLY" in the header or footer or as a watermark.
- Duplicate or convenience copies held for ease of reference or accessibility.
 - Convenience copies are duplicates of official records and are not treated as official records. There is no requirement to retain duplicates. They may be treated as having a reference value and they may be destroyed when the value ends.
- Reading files
- Confidential and restricted records pursuant to NRS 239.010
- Blank forms and office supplies
- Unofficial notices, unsolicited announcements, invitations, or other materials that are not filed as evidence of official NCSO business
- Personal items which pertain solely to an individual's affairs and do not relate to or have an effect on the conduct of NCSO business.

DENIALS

The law requires that it be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly. When denying a request, either in whole or in part, an ROC must provide a written notice of denial. The employee shall not be vague about the reason and specifically list a detailed explanation. The response should provide the requester with sufficient information about the reasoning behind the denial. This notice should include a description of the record(s) to which access is being denied and the legal citation and text of the statute or other provision(s) which is the basis for denying access to the requested records.

Reasons for non-disclosure are:

- **Non-record.** Non-records do not need to be produced.
- **Confidential.** Confidential documents or information shall not be disclosed. Sources of confidentiality include, but are not limited to:
 - **Statute, Regular or Order.** If a statute, regulation, or court order expressly makes the public record or information in the record restricted, privileged or confidential, it shall not be produced. If reasonably feasible, confidential information should be redacted and the public record produced. The requester must be provided with a citation to the legal authority for confidentiality.
- **Balancing Test.** A public record or information therein may be withheld from disclosure where there is a strong or private need for confidentiality, provided the demonstrated need for confidentiality significantly outweighs the public interest in open government and the requester's

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need for the information. *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990)

- **Deliberative Process Privilege.** Pre-decision documents which reflect the opinions, recommendations, advice or thought processes of County employees to any decision making official, making decisions may not be produced unless the requester can show his or her need is stronger than the public policy interests in non-disclosure. This exception will only be utilized with approval of the Sheriff and the notice to the requester should cite *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 798 P. 23 144 (1990)

APPEALING DENIALS

If a requester is denied access to a public record, in whole or in part, the requester may appeal the ROC's decision to the Operations Sergeant.

If a requester is denied access to a public record, in whole or in part, the requester may apply to the District Court in which the record is located to request that the court issue an order allowing access to the public record.

SUBPOENA

A subpoena is not a public records request. A subpoena is part of the judicial process and should be responded to pursuant to the NCSO subpoena policy and procedure.

UNLAWFUL ACTS

The creation of this policy was done pursuant to the Nevada Public Records Law and created to provide the public with access to public records.

Pursuant to NRS 238.310, it is a category C felony for any person to willfully and unlawfully remove, alter, mutilate, destroy, conceal or obliterate a record, map, book, paper, document or other thing filed or deposited in the NCSO or with a NCSO employee.

Some records that are considered confidential by NRS contain a provision that a violation of the confidentiality subjects the person breaching the confidence to being guilty of a misdemeanor, gross misdemeanor or felony depending on the circumstances.

All NCSO employees will act in good faith in disclosing or refusing to disclose records pursuant to this policy and shall follow the policy outlined within to govern those decisions. Should there be any request that the ROC is not sure how to respond to, a supervisor will be contacted immediately and legal counsel sought on how to respond.

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END OF POLICY NUMBER 1025

BY ORDER OF:



**SHARON A. WEHRLY,
SHERIFF**